

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

BRIAN GRAHAM, JR.,

Defendant.

DECISION AND ORDER
24-CR-11-A

This case was referred to Magistrate Judge Michael J. Roemer pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On February 28, 2024, Defendant Brian Graham, Jr. appeared before Magistrate Judge Roemer, waived his right to indictment (Dkt. No.9) and entered a plea of guilty to a one-count Information (Dkt. No. 10), which charges him with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B), pursuant to a written plea agreement. (Dkt. No. 11).

Magistrate Judge Roemer issued a Report and Recommendation (Dkt. No.13) confirming his oral findings that Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. No timely objections to the Report and Recommendation have been filed. It is hereby

ORDERED that, upon review of the waiver of indictment (Dkt. No. 9), the information (Dkt. No. 10), the plea agreement (Dkt. No. 11), and the plea transcript (Dkt. No. 16) of the February 28, 2024, change-of-plea proceeding before the Magistrate Judge; and the Report and Recommendation, the Court finds that all the requirements of Federal Rules of Criminal Procedure Rule 11 have been carefully followed.

Defendant's waiver of his right to indictment together with his plea of guilty were knowing, voluntary, and supported by a factual basis. The Magistrate Judge informed Defendant, who was placed under oath and addressed personally in open court, of Defendant's rights and the trial rights he was waiving should the Court accept his plea of guilty, the nature of the charge to which he was pleading guilty, and any maximum possible penalty, among the other requirements listed in the Rule. The Magistrate Judge determined that Defendant understood the foregoing. Accordingly, Defendant's plea of guilty is accepted based upon the oral findings of the Magistrate Judge as confirmed in the written Report and Recommendation.

Sentencing is scheduled for July 8, 2024 at 12:00 pm. The parties are directed to the Court's forthcoming Text Order for the submission of sentencing documents.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 19, 2024
Buffalo, New York